

Steven D. Crawley (0750)
P.O. Box 901468
Sandy, Utah 84090-1468
Tel: 801-580-3222
steven@crawleylaw.net
Attorney for Plaintiff

**UNITED STATES DISTRICT COURT
DISTRICT OF UTAH
CENTRAL DIVISION**

LAYNE ASHBY & CINDY ASHBY,

Plaintiff,

CASE NO. 15-cv-810

v.

TOSH, INC.
d/b/a CHECK CITY,

Defendant.

LAYNE ASHBY and CINDY ASHBY (Plaintiffs), through attorneys, allege the following against TOSH, INC. d/b/a/ CHECK CITY (Defendant):

INTRODUCTION

1. Count I of Plaintiffs' Complaint alleges that Defendant negligently, knowingly and/or willfully violated the Telephone Consumer Protection Act, 47 U.S.C. § 227 *et seq.* (TCPA).

JURISDICTION AND VENUE

2. Jurisdiction of this court arises pursuant to 28 U.S.C. 1331.
3. Because Plaintiffs resides in and Defendant does business within the State of Utah, personal jurisdiction is established.
4. Venue is proper pursuant to 28 U.S.C. 1391(b)(2).

PARTIES

5. Plaintiffs are natural persons who reside in St. George, Utah.
6. Defendant is a business entity with its principal place of business in Provo, Utah.
7. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

FACTUAL ALLEGATIONS

8. Defendant places collection calls to Plaintiffs seeking and attempting to collect on an alleged debt.
9. Defendant places collection calls to Plaintiff Layne Ashby's cellular telephone at phone number (435) 272-71XX and Plaintiff Cindy Ashby's cellular telephone at 435-319-56XX.
10. Defendant places collection calls to Plaintiffs from phone numbers including, but not limited to, 866-274-4672 and 617-714-0762.
11. Per its prior business practices, Defendant's calls were placed with an automated dialing system ("auto-dialer").
12. On or around May, 2015, Plaintiff Layne Ashby spoke with Defendant's representative and requested that Defendant cease placing calls to his cellular phone.
13. On or around July 30, 2015, Plaintiff Cindy Ashby spoke with Defendant's representative and requested that Defendant cease placing calls to her cellular phone.
14. Plaintiffs revoked any consent, express, implied, or otherwise, to receive automated collection calls from Defendant.
15. Despite Plaintiffs' request to cease, Defendant continued to place at least forty (40) automated calls to Plaintiffs without consent to do so.

COUNT I

DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION ACT

16. Defendant's actions alleged *supra* constitute numerous negligent violations of the TCPA, entitling Plaintiffs to an award of \$500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

17. Defendant's actions alleged *supra* constitute numerous and multiple knowing and/or willful violates of the TCPA, entitling Plaintiffs to an award of \$1500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

WHEREFORE, Plaintiffs respectfully prays that judgment be entered against the Defendant for the following:

18. Statutory damages of \$500.00 for each and every negligent violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(B);

19. Statutory damages of \$1500.00 for each and every knowing and/or willful violation of the TCPA pursuant to 47 U.S.C. § (b)(3)(b) and 47 U.S.C. § (b)(3)(C);

20. All court costs, witness fees and other fees incurred; and

21. Any other relief that this Honorable Court deems appropriate.

DEMAND FOR JURY TRIAL

Plaintiffs, LAYNE ASHBY and CINDY ASHBY, demand a jury trial in this cause of action.

RESPECTFULLY SUBMITTED,

DATED: November 19, 2015

By: /s/ Steven D. Crawley

Steven D. Crawley (0750)

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Sandy, Utah 84090-1468

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steven@crawleylaw.net

Attorney for Plaintiffs